

REMARKS/ARGUMENTS

1. INTRODUCTION

Claims 58-75 are pending in this application, with claims 61, 64, and 71-75 being previously withdrawn from consideration. Applicants have amended claims 58 and 65. Applicants respectfully request further examination and reconsideration of the application in view of the amendments and arguments.

2. AMENDMENTS TO THE CLAIMS

Applicants have amended claims 58 and 65. Support for these amendments can be found throughout the specification and drawings, including paragraphs [0053] and [0054] and Figs. 10-35. Applicants respectfully submit that these amendments do not add any new matter.

Applicants respectfully submit that these amendments place the application in condition for allowance. Alternatively, Applicants submit that the amendments would simplify issues on appeal. Applicants respectfully submit that the amendments are similar to previously presented dependent claims 62 and 69, but serve to further clarify the claims.

3. REJECTION OF CLAIMS UNDER 35 U.S.C. § 103(A)

Claims 58-60, 62-63 and 65-70 stand rejected as being unpatentable over Blatz et al. (“Blatz”) (U.S. Pat. No. 5,328,154) in view of Extine (U.S. Pat. No. 4,108,421). Applicants respectfully submit that the rejection of claims 58 and 65 have been overcome because the Examiner has failed to establish a *prima facie* case of obviousness with respect to these claims as amended. Applicants also respectfully submit that the rejection of claims 62 and 69 is improper because the Examiner has failed to establish a *prima facie* case of obviousness with respect to these claims as previously presented.

“Patent examiners carry the responsibility of making sure that the standard of patentability enunciated by the Supreme Court and by the Congress is applied in each and every case.” MPEP § 2141 (emphasis in original).

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation,

either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claim limitations.

MPEP § 2143. Applicants submit that the Examiner has failed to establish a *prima facie* case of obviousness with respect to claims 58-60, 62, 63, and 65-70 because these references when combined fail to teach or suggest all of the claimed limitations.

Independent claim 58 recites: “A wheel support leveler assembly comprising: a positional restraint body . . . having an upper surface wherein at least part of said upper surface of said restraint body is both configured for supporting a wheel and is generally planar to said upper surface of said first planar body, wherein said positional restraint body is removable from said first planar body; and an obstruction on said upper surface of said restraint body, said obstruction integral with said upper surface of said restraint body . . .” (emphasis added). Independent claim 65 recites substantially the same limitations emphasized above.

Previously presented dependent claim 62 similarly recites a “positional restraint” comprising “a top surface with a generally planar portion for extending over said first planar body and a ramp obstruction continuously joined to said planar portion. Previously presented dependent claim 69 recites substantially the same limitations emphasized above.

The Examiner acknowledges that Blatz does not teach a removable vehicle wheel positional restraint. The Examiner asserts that Extine teaches the use of a removable vehicle wheel positioning restraint, such as element 34 or 30. Applicants respectfully submit that Extine does not teach the use of a removable vehicle wheel positional restraint that recites all of the limitations of claim 58 or 65 as amended (nor does Blatz). In particular, element 34 of Extine does not meet the explicitly recited limitation that at least part of the upper surface of the restraint body is both configured for supporting a wheel and is generally planar to (i.e., parallel to a plane of) said upper surface of said first planar body. Element 34 is an arched tire engaging member with an arched upper surface. No portion of the upper surface that may be configured

for supporting a wheel (e.g., bearing the weight of the wheel) also is generally parallel to (e.g., parallel to a plane of) the upper surface of the first planar body. In addition to not having an upper surface that is at least in part generally planar to the upper surface of the first planar body and configured for supporting a wheel, element 34 does not have a lower surface with at least one engaging pocket in order to removably couple the “positional restraint body” to a “first planar body.” Element 34 is also not “removable from said first planar body” as explicitly recited in claims 58 and 65.

Element 30 also fails to meet the explicitly recited limitation that at least part of the upper surface of the restraint body is generally planar to (e.g., parallel to a plane of) the upper surface of the first planar body. Element 30 is a hard rubber wedge with opposing inclined surfaces and does not include an upper surface that is both configured for supporting a wheel (e.g., bearing the weight of the wheel) and is generally planar to (e.g., parallel to a plane of) the upper surface of the first planar body.

Furthermore, previously presented dependent claims 62 and 69 recite that the “positional restraint” comprises “a top surface with a generally planar portion for extending over said first planar body and a ramp obstruction continuously joined to said planar portion. Neither element 30 nor 34 in Extine teaches or suggests a top surface with a generally planar portion and an obstruction that is continuously joined to the planar portion. As described above, element 34 is an arched member. Element 34 does not have a ramp obstruction that is continuously joined to a generally planar portion of the positional restraint. As described above, element 30 is a hard rubber wedge. Element 30 does not have a ramp obstruction that is continuously joined to a generally planar portion of the positional restraint.

Because the combination of Blatz and Extine fails to teach or suggest all of the claimed limitations, and because there is no suggestion or motivation in the art to combine the teachings of Blatz and Extine, the rejection of claims 58, 65, 62, and 69 under 35 U.S.C. § 103(a) are overcome and/or improper and Applicants request that the rejection of claims 58, 65, 62, and 69 be withdrawn. At least because claims 59-60 and 63 depend from independent claim 58, Applicants respectfully submit that the rejection of claims 59-60 and 63 under 35 U.S.C. §

103(a) are overcome and/or improper and request that the rejection of claims 59-60 and 63 be withdrawn. At least because claims 66-68 and 70 depend from independent claim 65, Applicants respectfully submit that the rejection of claims 66-68 and 70 under 35 U.S.C. § 103(a) are overcome and/or improper and request that the rejection of claims 66-68 and 70 be withdrawn.

4. CONCLUSION

A genuine effort to resolve all issues has been made. For at least the above cited reasons, all claims pending in this Application are now believed to be allowable. Applicants respectfully request that any questions or concerns be directed to Applicants' undersigned attorney.

Respectfully submitted,

/Adam B. Strauss/
Adam B. Strauss
Reg. No. 43,167
DYKEMA GOSSETT PLLC
39577 Woodward Avenue, Suite 300
Bloomfield Hills, MI 48304
(248) 203-0764
ipmail@dykema.com
Customer No. 26127
Attorney for Applicant(s)

Date: August 1, 2007

BH01\779480.2
ID\MROS